

**Remarks/Arguments:**

The above Amendments and these Remarks are in reply to the Office Action mailed December 22, 2004.

Claims 48-105 were pending in the Application prior to the outstanding Office Action. In the Office Action, the Examiner rejected claims 48-105. The present Response cancels claims 80-82, 95-97, amends claims 76, 83, 87-91, leaving for the Examiner's present consideration claims 48-79, 83-94 and 98-105. Reconsideration of the rejections is requested.

Claims 48-53, 55-56, 58-67, 69-70, 72-81, 83-84, 86-96, 98-99, and 101-105 are rejected under 35 U.S.C. 102(b) as being anticipated by Wyman, U.S. Patent 5,438,508.

Independent claim 48 reads as follows:

48. A computer network including a multi-tier licensing system comprising:  
a user tier including user computers;  
a remote node tier including remote nodes enabling users to run a licensed software program, at least some remote nodes allowing multiple users at multiple user computers to run the licensed software program concurrently, the remote nodes producing counts of the numbers of licensed software users associated with the remote nodes; and  
a master node tier including a master node receiving the counts from the remote nodes and calculating a total number of licensed software users, the master node evaluating a license allocation condition using the total number of licensed software users.

Independent claims 62 reads as follows:

62. A multi-tier licensing system method comprising:  
at remote nodes of a remote node tier, enabling users to run a licensed software program, at least some remote nodes allowing multiple users at multiple user computers of a user tier to run the licensed software program concurrently;  
at the remote nodes, producing counts of the numbers of licensed software users associated with the remote nodes; and  
at a master node, receiving the counts from the remote nodes and calculating a total number of licensed software users, the master node evaluating a license allocation condition using the total number of licensed software users.

Each of these claims include transferring a count of a number of licensed software users associated with remote node to a master node. The count being used in the calculations of the total number licensed software users.

Such a transfer of a count is not described or suggested or given a motivation for in the Wyman reference. Wyman describes a multi-tier licensing system. As shown in figure 1 of Wyman, a license server 10 executes a license management program 11. The license server 10 communicates with a number of delegatee servers 13. The delegatee servers 13 run license management programs 14. As described in column 9 lines 42-44 of Wyman, the servers 13 have a delegated subset of the license units granted to the server 10.

As described in column 10 lines 35-40 of Wyman, the license server 10 maintains a license data file 23 containing the license documents or licenses and a log which is record of the usage activity of all the users 16 of the licensee program. In Wyman, the top tier maintains a license database for all of the information of the bottom tier node. Apparently, the system of Wyman does not transfer counts from tier 13 to tier 10, but instead transfers all of the licensing information from the tier 16 to the tier 10.

The system of Wyman need not send counts from the middle tier to the top tier to keep track of the licenses. The transfer of the detailed license information is sufficient. There is therefore, no suggestion to transfer counts in the system of Wyman.

Transferring counts from the middle tier to the top tier as claimed in the invention of independent claims 48 and 62 has the advantage that information concerning the total number of licenses can be efficiently transferred to the top tier. This efficiency means that it is possible to do frequent realtime determinations of the total number of licensed software users on a network. This is especially valuable when a number of licenses can change significantly during the day or within a short period. There is no suggestion of these advantages in the cited references. For these reasons, claims 48 and 62 are believed to be allowable. Claims 49-61 and 63-90 are dependent upon these independent claims and for that reasons and because of the additional limitations of these claims are believed to be allowable.

Claims 54, 68, 82 and 97 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyman U.S. Patent 5,438,508 in view of Bains et al., U.S. Patent 5,579,222.

Independent claim 76 has been rewritten to include limitations from the claims 80-82.

76. A computer network including a multi-tier licensing system comprising:  
a user tier including user computers;  
a remote node tier including remote nodes enabling users to run a licensed software program, at least some remote nodes allowing multiple users at multiple user computers to run the licensed software program concurrently, the remote nodes producing indications of the software usage of the licensed software program by users associated with the remote nodes; and  
a master node tier including a master node receiving the indications from the remote nodes and calculating a total number of licensed software users, the master node evaluating a license allocation condition using the total number of licensed software users, wherein a sanity scan is done on at least one subset of the remote nodes, where a scan result message is sent to the master node with at least some of the indications, the master node checks whether the scan result messages has been received from all of the remote nodes and deallocates any licenses allocated to users of any of the nodes from which a scan result message has not been received.

Independent claim 91 has been rewritten to include limitations from the claims 95-97.

91. A multi-tier licensing system method comprising:  
at remote nodes of a remote node tier, enabling users to run a licensed software program, at least some remote nodes allowing multiple users at multiple user computers in a user tier to run the licensed software program concurrently;  
at the remote nodes, producing indications of the software usage of the licensed software program by users associated with the remote nodes; and  
at a master node, receiving the indications from the remote nodes and calculating a total number of licensed software users, the master node evaluating a license allocation condition using the total number of licensed software users, wherein a sanity scan is done on at least one subset of the remote nodes, where a scan result message is sent to the master node with at least some of the indications, the master node checks whether the scan result messages has been received from all of the remote nodes and deallocates any licenses allocated to users of any of the nodes from which a scan result message has not been received.

The added limitations include checking whether a scan result message has been received from the remote nodes and deallocating any licenses allocated to users on any of the nodes from which a scan result message has not been received. Such limitation is not shown, suggested or given a motivation for in the cited references, alone or in combination.

In column 7, line 66 to column 8, line 10, of Bains, a system is described in which, if there is a lost connection between the user and the server, the program does not indicate that a license is unavailable. Since the server is down, a license may be available but not obtainable since the server is down. The operation of Bains is quite different from the system of claims 76

and 91 in which as a result of the sanity scan if a node does not respond, the licenses allocated to the users to the nodes are deallocated. Bains does not describe a deallocation process but an attempt to get a license. For this reason, even if one were to combine the references of Bains and Wyman, one would not produce a system in which the deallocation of licenses are remote node is done as the result of a sanity scan. For this reason, the independent claims 76 and 91, as amended, are believed to be allowable.

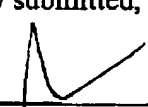
Claims 77-79, 83-90, 92-94 and 99-105 are dependent upon these independent claims and for that reason, and because of the additional limitations of these claims, are believed to be allowable.

In light of the above, it is respectfully submitted that all of the claims now pending in the subject patent application should be allowable, and a Notice of Allowance is requested. The Examiner is respectfully requested to telephone the undersigned if they can assist in any way in expediting issuance of a patent.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

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By:   
Joseph P. O'Malley  
Reg. No. 36,226

FLIESLER MEYER LLP  
Four Embarcadero Center, Fourth Floor  
San Francisco, California 94111-4156  
Telephone: (415) 362-3800